

MINUTES
RULES COMMITTEE MEETING
COMMISSION FOR MH/DD/SAS
HOLIDAY INN NORTH (2805 HIGHWOODS BOULEVARD –
OFF CAPITAL BOULEVARD)

July 9, 2003

Attending:

Commission/Committee Members: Floyd McCullouch, Chair, Pender McElroy, William Sims, Lois Batton, Martha Martinat, Dorothy Crawford, Anna Scheyett, Fredrica Turner Stell, Emily Moore, George Jones, Albert Fisher

Ex-Officio Members: Bob Hedrick for Mike Mayer, Joe Donovan, Sally Cameron

Excused: Pearl Finch, Mansfield Elmore, Jeanne Fenner

Others: Cindy Kornegay, Susan Collins, Marilyn Brothers, Jack Blackley, Jeff Horton, Don Willis, Tom Bennett, Janet Schazenlach, Ann Laughlin, Charlene Allen, Bert Bennett, Starleen Scott Robbins, Darlene Steele, Robin Huffman, Caroline Fisher, Stan Slawinski, Flo Stein, John L. Crawford

Handouts: Agenda; October 2, 2002 Minutes and April 2, 2003 Minutes; Title 10A Rule Reorganization Update; List of Rules Committee Members; Repeal of Specified Confidentiality Rules; Albemarle Waiver Request; Piedmont Area Waiver Request; Service Definitions; Draft Preliminary Recommendations of Service Definitions by DHHS; Letter to Pender McElroy from Richard Visingardi not Supporting Albemarle Waiver.

Chair Floyd McCullouch called the meeting to order at 10:00 a.m.

Minutes from the October 2, 2002 and the April 2, 2003 meetings were approved by vote.

Title 10A Rule Reorganization Update

Cindy Kornegay presented a handout of the administrative rule reorganization explaining the changes from Title 10 to Title 10A for the MH/DD/SAS rules. The reorganization was effective June 1, 2003 (see handout).

Recommendation to Repeal Confidentiality Rules Documentation of Release and Disclosure:

Marilyn Brothers explained the reasons for requesting that rules 10A NCAC 26B .0207 and 10A NCAC 26B .0303 be repealed. The current rules require additional

documentation regarding consents for release of information and disclosure. The concern is that the requirement for additional documentation is burdensome and duplicative. The current rules also exceed the federal HIPAA requirements. The consensus was that any efforts that reduce documentation, promote coordination efforts and decrease barriers should be encouraged.

Al Fisher made a motion to repeal these rules. Martha Martinat seconded the motion. Anna Scheyett made a friendly amendment to the motion: that the rules be repealed unless no other rule exists requiring the filing of the consent for release of confidential information in the client record. The motion passed unanimously as amended.

Albemarle MH/DD/SAS Request for Waiver of Rule Requiring Partial Hospitalization:

Marilyn Brothers introduced Ann Laughlin of Albemarle Area Program to give the overview of the Request for Waiver (see handout). Dr. Laughlin explained that Albemarle believed eliminating its partial hospitalization program and replacing it with an Assertive Community Treatment Team was in keeping with reform and would better serve it's counties overall.

A letter from Dr. Visingardi to Pender McElroy was handed out explaining the Division's reasons for not supporting this waiver request. Dr. Bert Bennett presented the Division's position in not supporting this waiver.

After much discussion of pros and cons for granting this waiver, a motion was made by Martha Martinat to forward the request to the full Commission with a recommendation for granting the waiver. Al Fisher seconded the motion.

It was suggested that granting the waiver include the requirement for an evaluation of the impact of this change in service and that a report of the evaluation come back to the Committee.

Anna Scheyett amended the motion to include a request for a more detailed presentation to the full Commission that specifically addresses how daily services would be provided in the absence of any type of crisis or day program.

The motion before the Committee to support the waiver requested with the provision that a more detailed presentation of the service alternatives planned be given at the August Commission meeting and that the Commission receive an evaluation report was put to a vote. The motion passed with 1 opposed and 1 abstained.

Faith Based Treatment Initiative:

Dr. Bert Bennett explained the Faith Based Treatment Initiative to the Committee stating that this effort is in the beginning stages. Division staff plan to present proposed

licensure rules for faith-based treatment programs to the Rules Committee at a future meeting.

Service Definitions/Licensure Rule Analysis:

Starleen Scott Robbins presented the preliminary information regarding areas of rule changes that may be needed as the Division puts into place the new set of service definitions to implement reform. The document presented included the possible changes resulting from the proposed new service definitions, existing service definitions and current licensure rules. Starleen informed the members that a final grid will be provided in the future for Commission feedback.

Division Update

Don Willis related to the membership that the Division is currently working on an Operations Plan that will describe the work to be done at the state level to implement the 2003 State Plan. This document should be released within the next 30 days for public information.

Mr. Willis informed the members that the draft Child Mental Health Plan will be on the web by July 14th, at which time a 30-day comment period will begin. He encouraged the members to review and comment. The plan will guide the way we serve children in the future.

There were questions from members about the discharge of people from hospitals to homeless shelters. Mr. Willis said that people who were considered long term residents should never be discharged to shelters and encouraged anyone who knows of such incidents to contact Jim Osberg with the Division, at (919) 733-3654. He did note that many individuals who come to the hospitals are homeless and if the court orders their immediate release and there is not sufficient time for discharge planning, they may in fact return to homeless shelters.

There were additional questions concerning the downsizing of hospital beds and the amount of resources the communities were receiving to support those coming out of the hospitals. Mr. Willis explained that each local program submitted a plan for building its capacity to serve individuals leaving the hospitals. Funds were allocated from the MH Trust Fund based on approval of each plan. This money would not necessarily result in a specific number of new "beds" being developed but is being used to increase the overall services and supports necessary to maintain individuals leaving the hospitals. He went on to explain that another \$8 million is being allocated for the same purpose this year but these funds are generated by moving funds from hospital budgets to communities after the hospital beds are closed.

Mr. Willis was asked to explain the new bed day allocation and how it is being implemented across the state. He stated that the number of bed days allocated to each local program for SFY 2004 is based on utilization during FY's 2000-2002. The number of bed days used last year should not cause undue hardship to the local programs or the

people they support. He informed the members that the LMEs would now be the manager of the utilization of hospital days, not the hospitals.

Mr. Willis also discussed the Skilled Nursing Facility/Enhanced Behavioral Care service that is proposed for development in existing nursing homes across the state. Each unit will have 20 beds and will be reimbursed at an increased nursing home rate. This is being done to specifically address the large number of elderly persons in our hospitals who need skilled nursing level of care but because of behavioral issues cannot have their needs met in existing nursing homes.

Floyd McCullouch informed the members that the Duplin, Sampson, Lenoir and Wayne merger is complete and the name of the area program is The EastPointe Human Services. Jack St. Clair is the first director.

Piedmont Area MH/DD/SAS LME Pilot Project Request for Waiver of Commission Rules:

Caroline Fisher from Piedmont Area Authority gave an overview of the five waiver requests being sought and the reasons for seeking these waivers (see handout). All waivers being requested relate to client rights rules.

After much discussion about the intent of the rules cited and the reasons waivers are being requested, it was suggested that more clarity is needed before a recommendation can be made to the full Commission. The Committee asked to see the existing rule language for the requested waivers. Mr. McElroy noted that many advocacy groups had been involved with the development of these rules and the full Commission may want their input prior to making a decision.

Don Willis agreed to send Piedmont's requests for waivers to representatives of advocacy groups who participated in the development of the seclusion and restraint rules and ask for comments. He assured the Committee that the input would be requested in a timeframe such that it could be included in the mail-out received by members 2 weeks prior to the next meeting.

Mr. McElroy made a motion to go to the full Commission without recommendation and Dr. Sims seconded the motion. All approved.

A discussion ensued as to a better way to inform the Committee about the waiver requests being placed on the agenda for action. Members indicated they need more specific information ahead of time. Members agreed that they would like to know what a local program or a provider is proposing as an alternative to the rule requested to be waived. After much discussion about the process for granting or denying waiver requests, Anna Scheyett moved to recommend to the full Commission that all such requests be presented in a format to include a copy of the current rule language, the specific waiver being requested, rationale for the request and any substitute practice

(including supporting documentation) to be put in place if the waiver is granted. Lois Batton seconded the motion.

New Business

Martha Martinat expressed her continued desire for the Commission to take positions of legislative issues, specifically appropriations issues, impacting the Division. She reminded the members of the letter from the Chairman to the legislature in support of a cigarette and alcohol tax with the funds generated being earmarked for mh/dd/sa services. She stated that the Commission should begin developing a package of legislative issues it would like to support in the next session and this item should continue to be on the list. She noted the need to change the statutes to address the loophole in state law that does not assign liability to adults who purchase beer in kegs for underage drinkers. She also talked about a problem that has come to her attention about dealers selling drugs to marines in Onslow County. Flo Stein of the Division related what she knew of the situation and will check further.

There was some discussion regarding the cigarette and alcohol tax not being dead this year and the need to fight to make sure the funds are not used for something else. In response to the continued discussion about drug enforcement, Mr. McElroy suggested at the November Commission meeting perhaps Mr. Willis could get an SBI agent to attend the meeting to make us aware of what is going on in the State.

The meeting adjourned at 3:15 p.m.